IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 703 OF 2005
IN
SUIT NO. 457 OF 2005

Balkisan D. Sanghvi & Anr. ... Plaintiffs.

V/s.

Kiron D. Sanghvi & ors. ... Defendants.

N.C.Thakkar, Sr.counsel with Sachin Chandarama
and Samrat Rasal i/b. M.K.Ambalal & Co.
for plaintiff No.1.

Manish Doshi i/b. M/s.Vimadalal & Co.
for defendant No.6.

Ms.Jyotsna Mukherjee i/b. Rajani Associates
for defendant No.2.

J.B.Chinai with Ms.Sonal i/b. Zohair & Co.
for defendant Nos.3 to 5.

CORAM : A.M.KHANWILKAR, J.

DATED : 5th September, 2005.

P.C. :

. This chambers summons is taken out by third defendant praying for amendment of the claim as per the schedule appended to the chamber summons. The chamber summons is opposed by the plaintiffs on the argument that the defendant cannot seek direction against the plaintiffs to amend the plaint so as to expand the scope of the proceedings already taken by the plaintiffs.

2. I find substance in this argument. By the proposed amendment, the third defendant is seeking

to expand scope of the suit instituted by the plaintiffs by including other properties referred in the schedule annexed to the chamber summons.

3. To get over this, counsel for the third defendant would contend that the proceedings in suit are for administration of properties and plaintiffs have not included certain properties. Thus, the third defendant requests the Court to require the plaintiffs to include the properties other than the properties mentioned in the plaint.

4. I see no substance in the submission. If the third defendant is so anxious to include further properties, it is open to the third defendant to file counter claim and pursue those proceedings to its logical end. Option was given to the counsel for third defendant to withdraw this chamber summons with liberty to file counter claim. Learned counsel on instructions states that third defendant does not want to withdraw the present chamber summons but invites orders from the Court.

5. In the circumstances, for the reasons already stated, the chamber summons should fail.

The same is rejected.

(A.M.KHANWILKAR, J.)